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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,492	12/10/2003	Anton Weiss	1140668-0059 CON	7680

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PATENT DEPARTMENT
1155 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

EXAMINER

KOSOWSKI, ALEXANDER J

ART UNIT	PAPER NUMBER
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2125

DATE MAILED: 03/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/733,492

Applicant(s)

WEISS, ANTON

Examiner

Alexander J Kosowski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8,12,35-37,40-44,53 and 54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8,12,35-37,40-44,53 and 54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1) Claims 1-8, 12, 35-37, 40-44 and 53-54 are presented for examination in light of the amendment filed 12/30/04.

Claim Rejections - 35 USC § 102

2) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3) Claims 1, 3-8, 12, 35-36, 40-44 and 53-54 are rejected under 35 U.S.C. 102(e) as being unpatentable over Johnson et al (U.S. Pat 6,598,029). The claimed invention reads on Johnson as follows:

Referring to claim 1, Johnson discloses a system for planning energy supply for energy consumers, said system comprising a first sub-system operatively associated with an energy coordinating body (col. 6 lines 7-13 and col. 9 lines 47-55), a second sub-system operatively associated with at least one energy supplier (col. 6 lines 24-28 and col. 9 lines 56-59), and a communication network between said first sub-system and said second sub-system (col. 11 lines 16-32), wherein each of said first and second sub-systems includes an interface for exchanging energy planning information between said sub-systems and for negotiating an energy supply specification from said at least one energy supplier to said energy consumers (col. 9 line 44 through col. 10 line 5).

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Referring to claims 3-4, Johnson discloses that said communication network is a global communication network and that it may be the Internet (col. 11 lines 16-32 and col. 24 lines 46-52).

Referring to claim 5, Johnson discloses that at least one energy coordinating body is an energy management system (col. 25 lines 39-43).

Referring to claim 6, Johnson discloses that at least one energy supplier is a power plant (col. 3 lines 40-41).

Referring to claim 7, Johnson discloses that each of said first and second sub-systems includes a processor and wherein the interface of each of said first and second sub-systems provides communications between said processors for automated optimization of energy supply planning (col. 25 lines 35-60).

Referring to claim 8, Johnson discloses that each of said interfaces exchanges at least two messages between said first and second sub-systems, said messages being related to negotiation of an energy supply specification from said at least one energy supplier for said energy consumers (col. 14 lines 54-67).

Referring to claim 12, Johnson discloses that said energy supply specification includes a plurality of energy supply sub-specifications (col. 9 line 64 through col. 10 line 5, whereby “rules” are considered sub-specifications).

Referring to claim 35, Johnson discloses a system for planning energy supply for energy consumers, said system comprising a first sub-system operatively associated with a first energy management system (col. 6 lines 7-13 and col. 9 lines 47-55) and a plurality of second sub-systems being operatively associated with a corresponding second energy management system

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(col. 6 lines 24-28 and col. 25 lines 39-43), and a communication network between said first sub-system and said second sub-systems (col. 11 lines 16-32), wherein each of said first and second sub-systems includes an interface for exchanging energy planning information between said sub-systems and for negotiating an energy supply specification for said energy consumers (col. 9 line 44 through col. 10 line 5).

Referring to claim 36, Johnson discloses a system for planning energy supply for energy consumers, said system comprising a first sub-system operatively associated with an energy supplier having a plurality of energy sources (col. 6 lines 7-13 and col. 9 lines 47-55), a plurality of second sub-systems, each of said second sub-systems being operatively associated with a corresponding one of said energy sources (col. 6 lines 24-28 and col. 25 lines 39-43), and a communication network between said first sub-system and said second sub-systems (col. 11 lines 16-32), wherein each of said first and second sub-systems includes an interface for exchanging energy planning information between said sub-systems and for negotiating an energy supply specification for said energy consumers (col. 9 line 44 through col. 10 line 5).

Referring to claim 40, Johnson discloses an energy planning system for planning energy supply from a plurality of energy suppliers for energy consumers, said system comprising a communication interface to said energy suppliers with a processor operatively associated with said communication interface (col. 11 lines 16-32 and col. 25 lines 35-60), a first routine executed by said processor for exchanging energy planning information through said communication interface between said processor and said energy suppliers (col. 25 lines 35-60) and a second routine executed by said processor for negotiating an energy supply specification from said energy supplier to said energy consumers (col. 9 line 44 through col. 10 line 5).

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Referring to claim 41, Johnson discloses that said first routine exchanges at least two messages between said processor and a corresponding one of said energy suppliers, said messages being related to said negotiated energy supply specification (col. 14 lines 54-67).

Referring to claim 42, Johnson discloses an energy planning interface to an energy management system for use in planning energy supply from an energy supplier for energy consumers, said interface comprising a communication interface to said energy management system with a processor operatively associated with said communication interface (col. 11 lines 16-32 and col. 25 lines 35-60), a first routine executed by said processor for exchanging energy planning information through said communication interface between said processor and said energy management system (col. 25 lines 35-60) and a second routine executed by said processor for negotiating an energy supply specification from said energy supplier to said energy consumers (col. 9 line 44 through col. 10 line 5).

Referring to claim 43, Johnson discloses that said first routine exchanges at least two messages between said processor and said energy management system, said messages being related to said negotiated energy supply specification (col. 14 lines 54-67).

Referring to claim 44, Johnson discloses a method of planning energy supply, said method comprising the steps of employing at least one energy coordinating body (col. 6 lines 7-13 and col. 9 lines 47-55), employing at least one energy supplier (col. 6 lines 24-28 and col. 9 lines 56-59), receiving and coordinating requests for energy at said at least one energy coordinating body, exchanging energy planning information related to said requests for energy between said at least one energy coordinating body and said at least one energy supplier and

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negotiating an energy supply specification responsive to said requests for energy from said at least one energy supplier (col. 9 line 44 through col. 10 line 5 and col. 25 lines 35-60).

Referring to claim 53, Johnson discloses a method of planning energy supply, said method comprising the steps of employing at least one energy coordinating body (col. 6 lines 7-13 and col. 9 lines 47-55), employing at least one energy supplier (col. 6 lines 24-28 and col. 9 lines 56-59), receiving requests for energy from a communication network at said at least one energy coordinating body (col. 11 lines 16-24), employing a global communication network to exchange energy planning information related to said requests for energy between said at least one energy coordinating body and said at least one energy supplier and employing a communication network to negotiate an energy supply specification from said at least one energy supplier and responsive to said requests for energy (col. 9 line 44 through col. 10 line 5 and col. 25 lines 35-60 and col. 24 lines 46-52).

Referring to claim 54, Johnson discloses that the Internet may be employed as said global communication network (col. 24 lines 46-52).

Claim Rejections - 35 USC § 103

4) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5) Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson as applied above, further in view of Robinson et al (Development of the Intercontrol Center Communications Protocol).

Referring to claim 2, Johnson discloses the system shown above. Johnson also discloses that said communication network may include local area networks between sub-systems (col. 11 lines 16-24) and that a global communication network may exist (col. 24 lines 46-52). However, Johnson does not explicitly teach the use of a first and second ICCP server associated with each sub-system.

Robinson teaches the use of ICCP servers in a energy supply and planning system (Page 451, section IV, first paragraph and page 453, Figure 2).

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to utilize ICCP servers associated with each sub-system in the invention shown by Johnson since ICCP is easier to implement and maintain than other protocols (Robinson, Page 451, section IV, paragraph 4).

6) Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson as shown above, further in view of Edelman et al (U.S. Pat 6,281,601).

Referring to claim 37, Johnson discloses the system shown above. However, Johnson does not explicitly teach that said energy supplier is a power plant having a plurality of turbo sets, wherein said energy sources are the turbo sets of said power plant.

Edelman teaches a power control system whereby a turbogenerator is used as an energy source (col. 1 lines 44-48).

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to utilize a plurality of turbo sets in the system shown by Johnson as energy sources since turbogenerators are well known as an available power source in a power supply system (col. 1 lines 6-7).

Response to Arguments

7) Applicant's arguments filed 12/30/04 have been fully considered but they are not persuasive.

Referring to Applicant's arguments that Johnson (U.S. Pat 5,698,029) does not teach "negotiation" but rather purely relates to a system for "auction" of energy, Examiner begins by noting the definition of "negotiate" in the American Heritage Dictionary, Fourth Edition. One definition of negotiate is "To sell or discount (assets or securities, for example)." Therefore, Examiner believes an "auction" reads on the term "negotiation" in that it involves sale at a possibly discounted price.

In addition, Examiner notes col. 9 line 44 through col. 10 line 5 of Johnson. In section (iii), Johnson teaches that a moderator may transmit back to the bidders some or all of the other bids, therefore "giving them an opportunity to adjust some or all of their bids". Examiner interprets this as a form of negotiation, and thus Johnson still reads upon the claimed invention.

Therefore, Examiner stands behind his original rejection above.

Conclusion

8) **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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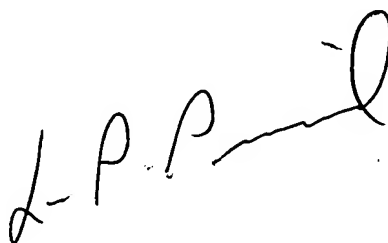
CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander J Kosowski whose telephone number is 571-272-3744. The examiner can normally be reached on Monday through Friday, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on 571-272-3749. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. In addition, the examiner's RightFAX number is 571-273-3744.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Alexander J. Kosowski
Patent Examiner
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A handwritten signature in black ink, appearing to read 'L-P-P' followed by a stylized flourish.

LEO PICARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100